

**Appln No. 10/687,847**

**Amdt date September 14, 2005**

**Reply to Office action of June 28, 2005**

**Amendments to the Drawings:**

The attached sheets of drawings includes changes to FIGs. 4-7. These sheets, which includes Figs. 3-7, replace the original sheets including Figs. 3-7.

Attachments:            Replacement Sheets  
                             Annotated Sheets Showing Changes

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**REMARKS/ARGUMENTS**

Claims 1-41 are pending in the above-referenced matter.

Claims 1, 10, 19 and 27 have been amended and claims 40 and 41 added to further define Applicant's invention.

This is a Response to the Office Action dated June 28, 2005 wherein the Examiner rejected claims 1, 7-8, and 36 under §102(e) as being anticipated by Sand et al. (US 6,655,401); rejected claims 31 and 32 under §103(a) for obviousness over Sand et al.; rejected claims 2, 3, and 9 under §103(a) for obviousness over Sand et al. in view of Wachman et al. (US 5,424,323); rejected claims 19, 21, and 23-25 under §103(a) for obviousness over Sand et al. in view of Wachman et al.; rejected claim 5 under §103(a) for obviousness over Sand et al. in view of Marais et al. (Pub. No. 2004/0037737); rejected claims 10, 12, 13, 16, and 17 under §103(a) by Sand et al. in view of Marais et al.; rejected claim 6 under §103(a) for obviousness over Sand et al. in view of Grune et al. (US 6,293,153); rejected claims 11 and 18 under §103(a) for obviousness over Sand et al. in view of Marais et al. and further in view of Wachman et al.; rejected claim 15 under §103(a) for obviousness over Sand et al. in view of Marais et al. and further in view of Grune et al.; rejected claim 22 under §103(a) for obviousness over Sand et al. in view of Wachman et al. and further in view of Bristor (Pub. No. 2003/0150936); rejected claim 27 under §103(a) for obviousness over Sand et al. in view of Marais et al. and further in view of Bristor; rejected claims 28 and 29 under §103(a) for obviousness over Sand et al. in view of Marais et al. and Bristor et al. and further in view of Wachman et al.; rejected claim 4 under §103(a) for obviousness over Sand et al. further in view of Taylor (Pub. No. 2002/0061263); rejected claim 14 under §103(a) for obviousness over Sand et al. in view of Marais et al. and further in view of Taylor; rejected claim 20 under §103(a) for obviousness over Sand et al. in view of Wachman et al. and further in view of Taylor; rejected claim 33 under §103(a) for obviousness over Sand et al. in view of Stanley; rejected claim 34 under §103(a) for obviousness over Sand et al. in view of Marais et al. and further in view of Stanley; rejected claim 35 under §103(a) for obviousness over Sand et al. in view of Wachman et al. and further in view of

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Stanley; rejected claim 37 under §103(a) for obviousness over Sand et al. in view of Marais et al. and further in view of Buongiorno et al. (Pub. No. 2002/0061474); rejected claim 38 under §103(a) for obviousness over Sand et al. in view of Wachman et al. and further in view of Buongiorno et al.; and rejected claim 39 under §103(a) for obviousness over Sand et al. in view of Marais et al. and Bristol and further in view of Buongiorno et al. In view of the amendments as set forth above and the remarks that follow, reconsideration and a notice of allowance are respectfully requested.

Allowance of claim 26 is acknowledged with thanks.

#### **Telephone Interview**

A telephone interview was conducted Wednesday, September 7, 2005, in which Sand et al., the primary reference, and the scope of various independent claims were discussed. In particular, Applicant explained that the Sand et al. reference is directed to a multiple chemical product eductive dispenser that uses a selection body to switch the motive fluid to a particular port of a particular eductor for mixing a concentrated solution connected to that eductor. Applicant further pointed out that Sand et al. disclose a block valve (i.e., ball valve) to merely turn on or off water flow to the disclosed multiple product eductive dispenser and that the ball valve acts like a light switch to open or close the motive fluid path only. Applicant further pointed out that the regulating valve recited by all the claims act to regulate the working pressure to a certain pressure, more akin to a surge protector rather than a light switch.

On Monday, September 12, 2005, the Examiner left a message stating that the term "regulating valve" is broadly interpreted to fall within the scope of prior art ball valves. For purposes of advancing prosecution and not lecturing the Patent Office on the state of the art for regulating valves versus ordinary block valves, which is used by Sand et al., the claims have been amended to expressly recite implicit limitations related to regulating valves.

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**§102(b) Rejection of Claims 1, 7-8, and 36 by Sand et al.**

Claims 1, 7-8, and 36 are rejected as being anticipated by Sand et al. Of the rejected claims, only claim 1 is an independent claim.

In rejecting the claims, the Examiner contends that Sand et al. disclose all of the elements and limitations recited by the rejected claims, including "the water supply source comprising a regulating valve for regulating a working pressure of water supply (See col. 2 - line 6 - the motive fluid is a pressurized water supply at water inlet 16; See col. 4, lines 23-27 - the motive fluid is received at an inlet valve 34, depicted as a ball valve, and passed through a motive fluid conduit 36 to the device 32 for mixing a selected chemical fluid, drawn respectively from chemical fluid reservoirs 38, 40 via chemical conduits 42, 44." The Examiner further explains that "[t]he inlet valve 34, i.e., the ball valve, rotates as inlet valve 34 is rotated between an "open" and "closed" position, functioning to regulate the working pressure of the water supply entering the water inlet port of the eductor. . ."

Preliminarily, for a reference to anticipate a claim under §102(b), it must adequately meet the terms of the claimed invention interpreted in light of the specification of the application. As set forth in the statute, the single prior art reference must disclose each and every element of the claim under consideration. Moreover, it cannot be rebuilt or reoriented by the utilization of Applicant's teachings in an attempt to create an anticipatory structure.

Claim 1 has been amended to recite, in part, a method for diluting a concentrated solution comprising the steps: providing an eductor, the eductor comprising a metering tip having a first orifice size, a chemical inlet port, and a water inlet port; hooking a water supply source to the water inlet port of the eductor, the water supply source comprising a pressure regulating valve for regulating a working pressure of the water supply from a first pressure to a second pressure and regulating the pressure regulating valve based on the first pressure to maintain the water supply source at substantially the second pressure; and activating the eductor by opening a valve to mix water and concentrated sterilant to a desired admixture containing a volume of sterilant to a volume of water.

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Applicant submits that Sand et al. do not anticipate claim 1 by disclosing each and every element of the claim. Among other things, Sand et al. do not disclose a pressure regulating valve as recited or the manner of operating the pressure regulating valve as recited. Still further, Sand et al. do not suggest regulating a working pressure of the water source but merely turning the valve to permit the water source to flow through the eductor. Sand et al. also do not contemplate or teach the step of regulating the inlet valve 34 based on a first pressure. Finally, Sand et al. do not disclose a dispenser system that utilizes both a pressure regulating valve to regulate water supply pressure and a separate valve to activate an eductor. Reconsideration and a notice of allowance are respectfully requested.

Because claims 7-8 and 36 depend, either directly or indirectly from claim 1, they too are allowable.

**§103(a) Rejection of Claims 31 and 32 for Obviousness over Sand et al**

Claims 31 and 32 are dependent from claim 1, the allowance of which is discussed immediately above.

In rejecting claims 31 and 32, the Examiner relied on "obvious[ness] to one of ordinary skill in the art" in combination with Sand et al. to perform the additional steps recited by dependent claims 31 and 32. However, this reliance failed to address the elements and limitations discussed immediately above, namely Sand et al. do not disclose a pressure regulating valve as recited or the manner of operating the pressure regulating valve as recited. Still further, Sand et al. do not suggest regulating a working pressure of the water source but merely turning the valve to permit the water source to flow through the eductor. Sand et al. also do not contemplate or teach the step of regulating the inlet valve 34. Finally, Sand et al. do not disclose a dispenser system that utilizes both a pressure regulating valve to regulate water supply pressure and a separate valve to activate an eductor.

Reconsideration and a notice of allowance are respectfully requested.

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**§103(a) Rejection of Claims 2, 3, and 9 over Sand et al. in view of Wachman et al.**

Claim 2, 3, and 9 are rejected by Sand et al. in view of Wachman et al. The three rejected claims are dependent on claim 1.

In rejecting claims 2, 3, and 9, the Examiner relied on Wachman et al. to disclose a sterilant composition, a pH adjusting agent, and a particular blended composition. Because Wachman et al. do not make up for the shortcomings discussed above for the allowance of claim 1 over Sand et al., the combination is defective and claims 2, 3, and 9 are allowable over Sand et al. in view of Wachman et al. for at least the reasons discussed above for the allowance of claim 1.

**§103(a) Rejection of Claims 19, 21, and 23-25 Over Sand et al. in view of Wachman et al.**

Of the rejected claims, claim 19 is an independent claim while claims 21 and 23-25 depend directly from 19.

In rejecting claim 19, the Examiner contends that Sand et al. disclose substantially as recited including a "regulating valve", which is inlet valve 34. The Wachman et al. reference is relied on to teach a sterilant composition that includes a concentrated sterilant, water, and a diluent, such as a pH adjusting agent.

Independent claim 19 has been amended to recite, among other things, an apparatus for diluting a concentrate comprising: a proportioning and dispensing unit comprising at least two eductors, wherein a first eductor comprises a first chemical inlet port, a second chemical inlet port, a motive source inlet port, and an outlet port; a line connecting a motive source to the motive source inlet port, the line comprising a pressure regulating valve for regulating pressure supplied by the motive source from a first pressure to a second pressure, which is lower than the first pressure, and a valve to permit regulated motive source from the pressure regulating valve at the second pressure to flow through the first eductor.

Applicant submits that Sand et al. in view of Wachman et al., either alone or in combination, failed to disclose each every element of claim 19 and therefore does not render claim 19 obvious. Among other things, Sand et al. failed to disclose an apparatus for diluting a

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concentrate comprising a line connecting a motive source to the motive source inlet port, the line comprising a pressure regulating valve for regulating pressure supplied by the motive source from a first pressure to a second pressure, which is lower than the first pressure, and a valve to permit regulated motive source from the pressure regulating valve at the second pressure to flow through the first eductor. Wachman et al. do not make up for these shortcomings.

Accordingly, Applicant submits that claim 19 and claims 21 and 23-25 are allowable.

**§103(a) Rejection of Claim 5 over Sand et al. in view of Marais et al.**

In rejecting claim 5, the Examiner relied on Marais et al. to disclose a method of and equipment for washing, disinfecting, and/or sterilizing health care devices. However, because claim 5 depends from independent claim 1 and because Marais et al. do not make up for the shortcomings discussed above for the allowance of claim 1, claim 5 is also allowable for at least the same reasons as discussed above for the allowance of claim 1.

**§103(a) Rejection of Claims 10, 12, 13, 16, and 17 by Sand et al. in view of Marais et al.**

Of the rejected claims, claim 10 is an independent claim while claims 12, 13, 16, and 17 depend directly from claim 10.

In rejecting independent claim 10, the Examiner contends that Sand et al. disclose substantially as recited including a "regulating valve", which is inlet valve 34. The Marais et al. reference is relied on to disclose an application of admixture for various usages, including washing portable dispensing articles.

Independent claim 10 has been amended to recite, in part, a method for diluting a concentrated chemical solution with water for use in a health care facility comprising the steps: adjusting the eductor's output by adjusting a pressure regulating valve to adjust a water supply pressure from a first pressure to a second pressure and regulating the pressure regulating valve to maintain the water supply pressure at substantially the second pressure; and activating the eductor by opening a valve so that regulated water flows through the water inlet port and concentrated chemical solution flows through the chemical inlet port.

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Applicant submits that Sand et al. do not disclose several of the elements and limitations recited in amended independent claim 10, including adjusting a pressure regulating valve, adjusting a water supply pressure from a first pressure to a second pressure, regulating the pressure regulating valve to maintain the water supply pressure at substantially the second pressure, activating a different valve for activating an eductor, and allowing regulated water to flow through the water inlet port of the eductor. However, the Marais et al. reference does not make up for the shortcomings of Sand et al. as the reference is only relied on to disclose use of an admixture in a health care facility. Accordingly, the rejection is inappropriate. Reconsideration and a notice of allowance are respectfully requested.

Because claims 12, 13, 16, and 17 depend directly from claim 10, they too are allowable for at least the same reasons as discussed above for claim 10.

**§103(a) Rejection of Claim 6 Over Sand et al. in view of Grune et al.**

In rejecting claim 6, which depends from claim 1, the Grune et al. reference is relied on to disclose a pressure gauge positioned downstream of a pressure regulating valve. However, because Grune et al. do not make up for other shortcomings of Sand et al. as discussed above for the allowance of claim 1, the combination is defective. Furthermore, because claim 6 depends from claim 1, it is allowable over the combination for at least the reasons discussed above for claim 1.

**§103(a) Rejection of Claims 11 and 18 over**

**Sand et al. in view of Marais et al. and further in view of Wachman et al.**

Claims 11 and 18 depend from claim 10, the patentability of which was discussed above.

In rejecting claims 11 and 18, the Wachman et al. reference is relied on to disclose a sterilant composition wherein the concentrated sterilant is a 50% or less by weight solution of glutaraldehyde to water.

Because neither Marais et al. or Wachman et al. make up for the shortcomings of Sand et al. (namely a method including the steps of adjusting a pressure regulating valve, adjusting a



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water supply pressure from a first pressure to a second pressure, regulating the pressure regulating valve to maintain the water supply pressure at substantially the second pressure, activating a different valve for activating an eductor, and allowing regulated water to flow through the water inlet port of the eductor), the combination is defective.

**§103(a) Rejection of Claim 15 over**

**Sand et al. in view of Marais et al. and further in view of Grune et al.**

Because Marais et al. and Grune et al. failed to make up for the shortcomings of Sand et al. and because claim 15 is dependent on independent claim 10, the allowance of which is discussed above, it too is allowable.

**§103(a) Rejection of Claim 22 over**

**Sand et al. in view of Wachman et al. and further in view of Bristol**

Because Wachman et al. and Bristol failed to make up for the shortcomings of Sand et al. and because claim 22 depends from independent claim 19, the allowance of which is discussed above, it too is allowable.

**§103(a) Rejection of Claim 27 over**

**Sand et al. in view of Marais et al. and further in view of Bristol**

In rejecting independent claim 27, the Examiner contends that Sand et al. disclose substantially as recited including a "regulating valve", which is inlet valve 34. The Marais et al. reference is relied on to disclose an application of admixture for various usages, including washing, disinfecting, and/or sterilizing. Bristol is relied on to disclose sizing appropriate metering tips.

Independent claim 27 has been amended to recite, among other things, a method for dispensing an admixture of concentrated chemical solution and water in a proportioning and dispensing unit comprising: mounting two eductors to a housing; connecting a water supply line to the common water inlet header; the water supply line comprising a pressure regulating valve

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to regulate water pressure from a first pressure to a second pressure; and activating at least one of the first eductor or the second eductor by opening a valve to open a port on the activated eductor to produce an admixture of at least one of the first chemical and water and the second chemical and water.

Applicant submits that Sand et al. do not disclose several of the elements and limitations recited in amended independent claim 27, including connecting a water supply line to the common water inlet header; the water supply line comprising a pressure regulating valve, regulating the valve, regulating water pressure from a first pressure to a second pressure; and activating at least one of the first eductor or the second eductor by opening a valve to open a port on the activated eductor to produce an admixture of at least one of the first chemical and water and the second chemical and water. However, neither the Marais et al. reference or the Bristor reference, either alone or in combination, discloses the elements and limitations missing from the Sand et al. reference. Accordingly, reconsideration and a notice of allowance are respectfully requested.

**§103(a) Rejection of Claims 28 and 29 over**

**Sand et al. in view of Marais et al., Bristor et al., and further in view of Wachman et al.**

Because Marais et al., Bristor et al., and Wachman et al. failed to make up for the shortcomings of Sand et al. and because claims 28 and 29 depend from independent claim 27, the allowance of which is discussed above, they too are allowable.

**§103(a) Rejection of Claim 4 over Sand et al. in view of Taylor**

Because Taylor failed to make up for the deficiencies of Sand et al. and because claim 4 depends from claim 1, the allowance of which is discussed above, it too is allowable.

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**§103(a) Rejection of Claim 14 over Sand et al. & Marais et al. and further in view of Taylor**

Because Marais et al. and Taylor failed to make up for the deficiencies of Sand et al. and because claim 14 depends from claim 10, the allowance of which is discussed above, it too is allowable.

**§103(a) Rejection of Claim 20 over**

**Sand et al. & Wachman et al. and further in view of Taylor**

Because Wachman et al. and Taylor failed to make up for the deficiencies of Sand et al. and because claim 20 depends from claim 19, the allowance of which is discussed above, it too is allowable.

**§103(a) Rejection of Claim 33 over Sand et al. in view of Stanley**

Because Stanley failed to make up for the deficiencies of Sand et al. and because claim 33 depends from claim 1, the allowance of which is discussed above, it too is allowable.

**§103(a) Rejection of Claim 34 over Sand et al. & Marais et al. and further in view of Stanley**

Because Marais et al. and Stanley failed to make up for the deficiencies of Sand et al. and because claim 34 depends from claim 10, the allowance of which is discussed above, it too is allowable.

**§103(a) Rejection of Claim 35 by Sand et al., Wachman et al. and Stanley**

Because Wachman et al. and Stanley failed to make up for the deficiencies of Sand et al. and because claim 35 depends from claim 19, the allowance of which is discussed above, it too is allowable.

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**§103(a) Rejection of Claim 37 over Sand et al., Marais et al. and Buongiorne et al.**

Because Marais et al. and Buongiorne et al. failed to make up for the deficiencies of Sand et al. and because claim 37 depends from claim 10, the allowance of which is discussed above, it too is allowable.

**§103(a) Rejection of Claim 38 over Sand et al., Wachman et al. and Buongiorne et al.**

Because Wachman et al. and Buongiorne et al. failed to make up for the deficiencies of Sand et al. and because claim 38 depends from claim 19, the allowance of which is discussed above, it too is allowable.

**§103(a) Rejection of Claim 39 over**

**Sand et al., Marais et al., Bristor and further in view of Buongiorne et al.**

Because Marais et al., Bristor, and Buongiorne et al. failed to make up for the deficiencies of Sand et al. and because claim 39 depends from claim 27, the allowance of which is discussed above, it too is allowable.

**New Claims 40 & 41**


Applicant submits that new claims 40 and 41 are patentable over the art of record. Namely, independent claim 40 recites, in part, an apparatus for diluting a concentrate comprising: a proportioning and dispensing unit comprising an eductor, wherein the eductor comprises a chemical inlet port, a motive source inlet port, and an outlet port; a container containing a concentrate having a container outlet port and a hose connecting the container outlet port to the chemical inlet port; a line connecting a motive source to the motive source inlet port, the line comprising a pressure regulating valve for regulating pressure supplied by the motive source from a first pressure to a second pressure, which is lower than the first pressure, and a block valve for at least one of opening and blocking the motive source connected in series with the pressure regulating valve; an outlet hose for connecting to the outlet port of the eductor; and a metering tip removably received in the chemical inlet port.

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Sand et al. do not disclose several limitations and elements recited by claim 40, including a pressure regulating valve, a separate second valve, the regulating valve and the second valve being in series, and regulating the working pressure from a first pressure to a second pressure. None of the other art of records make up for the foregoing shortcomings.

In view of the amendments and remarks as set forth above, the application is thought to be in condition for allowance and early notice thereof is respectfully solicited. In the event the Examiner believes otherwise, Applicants respectfully request a formal telephone interview before the next Action to review the 401 Sand et al. reference and the pending claims as this opinion would clearly show a misunderstanding by one or the other party of either the teachings of the '401 patent and/or the scope of the claims. Applicant's attorney can be reached by contacting the undersigned at the telephone number identified below.

Respectfully submitted,  
CHRISTIE, PARKER & HALE, LLP

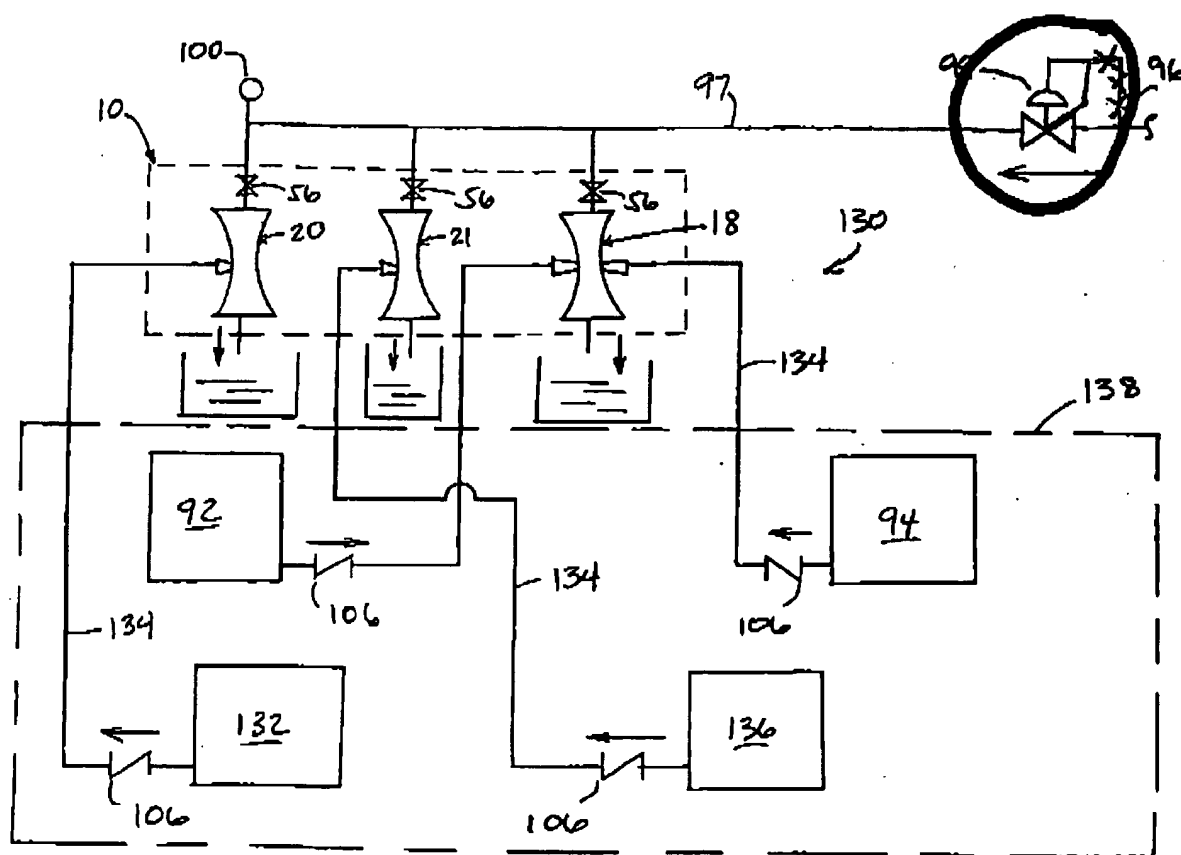
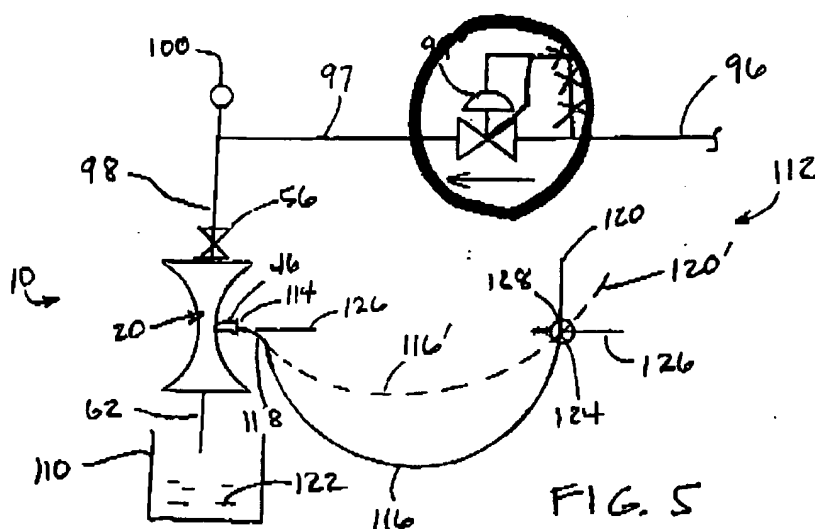
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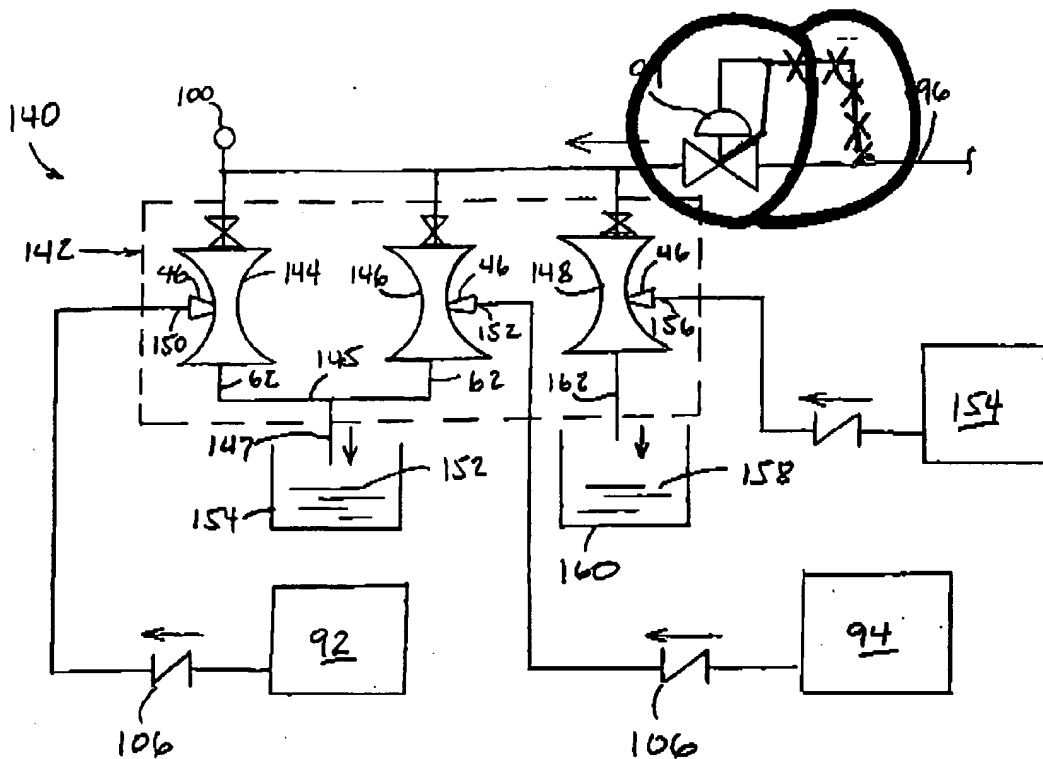
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